

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

JOHN HENRY SCHNEIDER,

Debtor.

Case No. **14-61357-7**

ORDER

At Butte in said District this 10th day of March, 2015.

In this Chapter 7 bankruptcy, after due notice, a hearing was held March 10, 2015, in Billings on the Motion to Modify Stay filed by Mary Wilkinson (“Wilkinson”) on January 15, 2015. James A. Patten of Billings, Montana appeared at the hearing on behalf of Wilkinson, and Harold V. Dye of Missoula, Montana appeared at the hearing on behalf of the Debtor. Paul Warren, and the Chapter 7 Trustee, Joseph V. Womack of Billings, Montana, testified. Wilkinson’s Exhibit 3 was admitted into evidence without objection.

In her motion, Wilkinson seeks leave from the automatic stay to prosecute an action against Debtor and others now pending in Wyoming. Wilkinson states that if her motion is granted, she will waive her claims against the bankruptcy estate, will seek no recovery from the Debtor beyond the available insurance coverage, and will not seek payment of her claims from assets of the bankruptcy estate. Debtor opposed Wilkinson’s motion arguing:

Debtor is also a critical witness in an arbitration proceeding pending before the American Arbitration Association (Meridian Surgical Partners v. Schneider; Case No. 62 193 Y 139 13) which could result in a recovery of millions of dollars to the estate. To the best of counsel’s understanding this matter is set to be arbitrated in the week of June 22, 2015.


Through testimony of the witnesses, Wilkinson established that trial of the Wyoming matter

would probably not occur until September 2015. The Trustee further testified that the Meridian arbitration will probably not occur until December of 2015 or early 2016.

After hearing the testimony, Debtor's counsel agreed to withdraw the objection upon the condition that trial of the case pending before the Fifth Judicial District of Wyoming as civil action number 2738 and the Meridian arbitration not be scheduled for the same dates or in close proximity to each other. All parties agreed. With Debtor's conditional consent and given the absence of any opposition by the Trustee,

IT IS ORDERED that Mary Wilkinson's Motion to Modify Stay filed January 15, 2015, is granted; and the stay afforded by § 362(a) of the Bankruptcy Code is modified to permit Mary Wilkinson to continue prosecution of her medical malpractice claim against the Debtor in the Fifth Judicial District of Wyoming upon the condition that Mary Wilkinson waive her claims against the bankruptcy estate, not seek recovery from the Debtor beyond the available insurance coverage, and not seek payment of her claims from assets of the bankruptcy estate, and upon the further condition that trial in the Wyoming matter shall not be scheduled for the same dates, or in dates that in close proximity, to the Meridian arbitration.

BY THE COURT

A handwritten signature in cursive script, reading "Ralph B. Kirscher", written over a horizontal line.

HON. RALPH B. KIRSCHER
U.S. Bankruptcy Judge
United States Bankruptcy Court
District of Montana